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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2351/2017

SMT. SNEHLATA & ORS.

.... Petitioner

Through: Ms. Shimpy
Arman Sharma, Advocate.

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.... Respondents

Through: Ms. Sushila
Narang, Counsel for
Respondent No. 1

Mr. Yeeshu Jain, Standing
Counsel, with Ms. Jyoti
Tyagi, Advocate for
Respondent No. 4

Ms. Mrinalini Sen, Standing
Counsel, for Respondent
No. 5

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

09.08.2019

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1. The prayers in the present petition read as under:

“a. issue a writ of mandamus, order, directions, declaration for the share of compensation out of acquisition proceedings initiated under the Land Acquisition Act, 1894 is deemed to have been lapsed in respect of land

bearing Khasra Nos. 32/2/2(0-14), 33/1/2(1-09), 33/2(1-17), 36/1(0-12), 36/2(1-10), 36/3(1-18), 37/2(0-02), 43/2(0-03) & 44/1(1-02), measuring 9 *Bighas* 7 *Biswas*, situated in the revenue estate of Village Molarband, New Delhi, in view of the section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

b. award the cost of the petition to the petitioners.”

2. The background facts are the land in question i.e. 9 *Bighas* 7 *Biswas* comprised in Khasra Nos. 32/2/2 (0-14), 33/1/2 (1-09), 33/2 (1-17), 36/1 (0-12), 36/2 (1-10), 36/3 (1-18), 37/2 (0-02), 43/2 (0-03) & 44/1 (1-02) (‘subject land’) situated in the Revenue Estate of Village Molarband, New Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 16th April, 1964 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 24th June, 1965. Thereafter, the Land Acquisition Collector (‘LAC’) made an Award No. 1934-D/81-82 (‘the Award’) dated 5th January, 1977 under Section 11 of the LAA. Possession of the subject land was taken by way of *Kabja Karwai* on 10th April, 1997.

3. The Petitioners state that they are the legal heirs of Shri Mangat Ram who was the recorded owner of the subject land at the time of the making of the Award. It is stated that Shri Mangat Ram had filed an application claiming compensation for the subject land which had not succeeded. It is stated that the Petitioners became the owners of the subject land upon the expiry of Shri

Mangat Ram. The Petitioners claim that no compensation has been paid as regards the subject land despite the Award having been made in 1977.

4. It is submitted by the Petitioners that other legal heirs of Shri Mangat Ram have obtained an order from this Court dated 2nd August, 2016 in W.P.(C.) No. 8044/2015 (*Roop Chand Vashisht & Ors. v. Union of India and Anr.*) directing that compensation be paid to them within six months of the passing of the order. It is further submitted that the Petitioners made a representation to the LAC on 14th July, 2016 as regards compensation but no action was taken upon the matter.

5. Counter-affidavits have been filed on behalf of the LAC and the Delhi Development Authority ('DDA'). In the counter-affidavit of the DDA, it is averred that Cheque No. 380113 dated 23rd March, 1981 for an amount of Rs. 5, 43, 748 /- was sent by the DDA to the LAC as compensation for the subject land. It is further stated by the DDA that the writ petition is liable to be dismissed on account of delays and laches.

6. It is averred by the DDA that as regards Khasra No. 36/3 (1-18), the concerned Petitioners has not placed any document on record to show they are the descendants of the recorded owners thereof. It is further stated by the DDA that Petitioners No. 15 – 18 have not placed any document on record to show that they are the descendants of the recorded owners thereof. It is submitted by the DDA that the Department is in the process of filing an SLP against the

order of this Court dated 2nd August, 2016 in W.P.(C.) No. 8044/2015 (***Roop Chand Vashisht & Ors. v. Union of India and Anr.***) in view of the judgment of the Supreme Court in ***Indore Development Authority v. Shailendra (Dead) through L.R.s & Ors. (2018) 3 SCC 412.***

7. In the counter-affidavit of the LAC, it is averred that the compensation as regards the subject land has been deposited in the Revenue Deposit ('RD') on 30th January, 1982. It is submitted by the LAC that the judgment of the Supreme Court in ***Indore Development Authority v. Shailendra (Dead) through L.R.s & Ors. (2018) 3 SCC 412*** has held that deposit of compensation in RD is also one of the methods of making payment. Therefore, it is averred that compensation has been duly paid for the subject land.

8. From the averments in the writ petition itself, it emerges that the subject land forms a part of Village Molarband. On the website of the Department of Urban Development, GNCTD, a list of unauthorised colonies awaiting regularisation has been put up. Molarband Village, Badarpur is one such unauthorized colony, which figures at Sl. No. 1583 (Regn. No. 93 ELD) on the aforesaid list. This Court has in a series of orders, consistently held that where the property in question is part of an unauthorized colony, no relief under Section 24 (2) of the 2013 Act can be granted. The legal position has been summarized by the Court in ***Mool Chand v. Union of India (2019) 173 DRJ 595 (DB)*** where it was held in paragraphs 48, 49 and 50 as under:

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorized colony. The very basis for seeking regularization of an unauthorized colony is that it is located on land which belongs either to the public or to some other private parties. The Petitioners would therefore not have the locus standi to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularization on the basis that they are in unauthorized colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No. 190/2016 (*Harbhagwan Batra v. Govt. of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No. 10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negatived similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (*Akhil Sibal v. Govt. of NCT of Delhi*) this Court observed in this context as under:

“18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premise on which such regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them try to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.”

9. The above decision has been followed and the legal position has been reiterated by this Court in an order dated 25th January, 2019 in W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*). The decision in *Roop Chand Vashisht* did not advert to this aspect of the matter and, therefore, does not help the Petitioners. However, as clarified in *Krishna Devi v. Union of India* (*supra*), the dismissal of the present petition will not come in the way of the Petitioners pursuing the claim for regularisation of the unauthorised colony in question.

10. For the aforementioned reasons, the writ petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 09, 2019

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